

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:

Sarah Saroja Kolla
5871 Chipwood Court
Elkridge, MD 21075
SSN/ITIN: xxx-xx-5314

Debtor(s).

Case No. 17-32440-KRH
Chapter 13

NOTICE OF MOTION TO REOPEN CASE

PLEASE TAKE NOTICE THAT the United States Trustee has filed with the Court a **Motion to Reopen Case** (the "Motion") in the above-captioned case.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one).

If you do not want the Court to grant the relief sought in the Motion to Reopen Case, or if you want the Court to consider your views on the Motion, then within one (1) day prior to the date set for a hearing on this matter, you or your attorney must:

(X) File with the Court, at the address below, a written request for a hearing [or a written response pursuant to Local Bankruptcy Rule 9013-1(H)]. You must mail or otherwise file it early enough so the Court will **receive** it on or before the due date identified above.

Clerk of Court
United States Bankruptcy Court
701 East Broad Street - Suite 4000
Richmond, Virginia 23219

Kathryn R. Montgomery, AUST (VSB 42380)
Shannon Pecoraro, Esq. (VSB 46864)
Jason B. Shorter, Esq. (VSB 80929)
Office of the United States Trustee
701 East Broad Street - Suite 4304
Richmond, VA 23219
Telephone (804) 771-2310
Facsimile (804) 771-2330

You must also mail a copy to:

Kathryn R. Montgomery, Esq.
Assistant United States Trustee
Office of the United States Trustee
701 East Broad Street - Suite 4304
Richmond, VA 23219

(X) Attend a hearing on the Motion. The hearing will be held before the Honorable Kevin R. Huennekens, United States Bankruptcy Judge, on **November 17, 2021, at 12:00 p.m.**, by remote video conference via Zoom for Government in accordance with General Order 20-5.

REMOTE HEARING INFORMATION: Due to the COVID-19 public health emergency, no in-person hearings are being held. This hearing will take place remotely through Zoom on the date and time scheduled herein. To appear at the hearing, you must send, by email, a completed request form (the "Zoom Request Form"), which is available on the Court's internet website at www.vaeb.courts.gov, on the page titled, "Temporary Emergency Provisions Regarding ZoomGov Remote Proceeding Access Information."

Email your completed Zoom Request Form to the email address listed for the Judge assigned to the case. Following receipt of your Zoom Request Form, Court staff will respond to the email address from which the request was submitted with additional information on how to participate through Zoom.

The email address shall be used only to submit Zoom Request Forms. No other matters or requests will be considered by Court staff, and under no circumstances will any such matters or requests be brought to the Judge's attention. Failure to comply with these instructions may result in appropriate action, including, but not limited to, the imposition of sanctions.

PLEASE NOTE: You MUST submit the Zoom Request Form no later than two (2) business days prior to this hearing. Any documentary evidence the parties wish to present at the hearing must be filed with the Court in advance of the hearing

If you fail to file timely a written response or to attend the hearing, the Court may consider any objection you may have waived and enter an Order granting the relief requested in the Motion.

Under Local Bankruptcy Rule 9013-1, unless a written response to this motion and supporting memorandum are filed with the Clerk of Court and served on the moving party within one (1) day before the scheduled hearing date, the Court may deem any opposition waived, treat the motion as conceded, and issue an order granting the requested relief without further notice or hearing.

Dated: November 4, 2021

John P. Fitzgerald, III
Acting United States Trustee
Region Four

/s/ Kathryn R. Montgomery
Kathryn R. Montgomery
Assistant United States Trustee

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that on November 4, 2021, a true copy of the foregoing was delivered via electronic mail pursuant to the Administrative Procedures of the CM/ECF System for the United States Bankruptcy Court for the Eastern District of Virginia to all necessary parties. In addition, a copy was deposited in the United States Mail, First Class Mail, on all parties listed on the mailing matrix for this case.

/s/ Kathryn R. Montgomery
Kathryn R. Montgomery
Assistant United States Trustee

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:

Sarah Saroja Kolla,
Debtor(s).

Case No. 17-32440-KRH
Chapter 13

**MOTION OF THE UNITED STATES TRUSTEE
TO REOPEN CASE**

COMES NOW, JOHN P. FITZGERALD, III, Acting United States Trustee for Region Four, (the “United States Trustee”), through the undersigned counsel, and pursuant to 11 U.S.C. § 350(b), (the “Bankruptcy Code”), Rule 5010 of the Federal Rules of Bankruptcy Procedure, and Local Bankruptcy Rule 5010-1, respectfully moves the Court for entry of an order reopening the case of Sarah Saroja Kolla (“Debtor”). In support of his motion, the United States Trustee states as follows:

1. Debtor filed a voluntary petition (the “Petition”) under chapter 13 of the Bankruptcy Code on May 11, 2017. ECF Docket 1.
2. Suzanne E. Wade (the “Chapter 13 Trustee”) was appointed chapter 13 trustee for the Debtor’s estate. *See* ECF Docket, *generally*.
3. Debtor funded plan payments in full and received a discharge. The Chapter 13 Trustee filed a Final Report and Account. *See* ECF Docket, 30-36.

Kathryn R. Montgomery, Esq., AUST (Va. Bar No. 42380)
Shannon Pecoraro, Esq. (Va. Bar No. 46864)
Jason B. Shorter, Esq. (Va. Bar No. 80929)
Office of the United States Trustee
701 East Broad Street - Suite 4304
Richmond, VA 23219
Telephone (804) 771-2310
Facsimile (804) 771-2330

4. Following discharge, the case was closed on February 10, 2021. *See* ECF Docket 37.

5. On October 8, 2021, the Chapter 13 Trustee filed a motion to reopen the case (the “Chapter 13 Trustee’s Motion”), for the purpose of filing an adversary proceeding to revoke the Debtor’s discharge because of her alleged failure to adequately disclose assets. *See* ECF Docket 38.

6. On November 3, 2021, this Court held a hearing on the Chapter 13 Trustee’s Motion and questioned whether the United States Trustee, rather than the Chapter 13 Trustee, should seek to reopen this case. The Court continued the matter to November 17, 2021.

7. The United States Trustee appreciates the Court’s concerns and recognizes that the Chapter 13 Trustee in this case has been discharged, which raises a question of whether the Chapter 13 Trustee is the appropriate party to move to reopen the case.

8. Under the Bankruptcy Code, a closed bankruptcy case may be reopened to “administer assets, to accord relief to the debtor, or for other cause.” 11 U.S.C. § 350(b).

9. Section 350 gives a bankruptcy court broad discretion in deciding whether to reopen a case. *See e.g., In re Emmerling*, 223 B.R. 860, 864 (B.A.P. 2nd Cir. 1997).

10. Rule 5010 of the Federal Rules of Bankruptcy Procedure provides that a case may be reopened on motion of the debtor or other “party in interest.”

11. “Party in interest” is not defined by the Bankruptcy Code, but the United States District Court has stated that a “party in interest” under § 350(b) could be the debtor, the trustee or a creditor. *In re Alexandria Surveys Int’l., LLC*, 500 B.R. 817, 820 (E.D. Va. 2013).

12. Should the Court grant the Chapter 13 Trustee’s pending Motion to Reopen, the United States Trustee appreciates that this motion is moot.

13. Should the Court deny the Chapter 13 Trustee's pending Motion to Reopen, the United States Trustee respectfully moves to reopen the case to allow the Chapter 13 Trustee to file an adversary proceeding to revoke the Debtor's discharge because of her alleged failure to adequately disclose assets.

WHEREFORE, the United States Trustee respectfully moves the Court for entry of an order reopening the case and granting such other and further relief as the Court shall deem just and appropriate.

Respectfully submitted,

JOHN P. FITZGERALD, III
United States Trustee
Region Four

Date: November 4, 2021

By: /s/ Kathryn R. Montgomery
Kathryn R. Montgomery, Esq.
Assistant United States Trustee

CERTIFICATE OF SERVICE

I hereby certify that on November 4, 2021, a true copy of the foregoing was delivered via electronic mail pursuant to the Administrative Procedures of the CM/ECF System for the United States Bankruptcy Court for the Eastern District of Virginia to all necessary parties.

/s/ Kathryn R. Montgomery
Kathryn R. Montgomery, AUST
Office of the United States Trustee
701 East Broad Street - Suite 4304
Richmond, VA 23219
Telephone (804) 771-2310

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:

Sarah Saroja Kolla,

Debtor(s).

Case No. 17-32440-KRH
Chapter 13

ORDER REOPENING CASE

This matter comes before the Court upon the Motion of the United States Trustee to reopen this closed case pursuant to 11 U.S.C. § 350(b), and it appearing that due notice was given and that good cause exists to grant the relief sought in the Motion, it is hereby ORDERED:

1. The Motion to Reopen is GRANTED.
2. It is FURTHER ORDERED that this case is hereby reopened.
3. The United States Trustee shall appoint a chapter 13 trustee to complete the administration of assets in this case.
4. Upon entry, the Clerk is directed to send a copy of this Order to all parties on the service list attached hereto.

DATE:

BANKRUPTCY JUDGE
UNITED STATES BANKRUPTCY COURT

Kathryn R. Montgomery, Esq., AUST (Va. Bar No. 42380)
Shannon Pecoraro, Esq. (Va. Bar No. 46864)
Jason B. Shorter, Esq. (Va. Bar No. 80989)
Office of the United States Trustee
701 East Broad Street - Suite 4304
Richmond, VA 23219
Telephone (804) 771-2310
Facsimile (804) 771-2330

I ask for this:

/s/ Kathryn R. Montgomery
Kathryn R. Montgomery, Esquire
Assistant United States Trustee
Office of the United States Trustee
701 East Broad Street - Suite 4304
Richmond, VA 23219

CERTIFICATION

I hereby certify that this Order has been either served on or endorsed by all necessary parties.

/s/ Kathryn R. Montgomery
Kathryn R. Montgomery

SERVICE LIST

Sarah Saroja Kolla
5871 Chipwood Court
Elkridge, MD 21075

Callyn Marianna Gibson, Esquire
Boleman Law Firm
P. O. Box 11588
Richmond, VA 23230-1588

Suzanne E. Wade, Esquire
7202 Glen Forest Drive
Suite 202
Richmond, VA 23226

Kathryn R. Montgomery, Esquire
Assistant United States Trustee
Office of the United States Trustee
701 East Broad Street, Room 4304
Richmond, VA 21219